

ENTERED

December 17, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

WARREN PIERRE CANADY,

Petitioner,

VS.

LORIE DAVIS,

Respondent.

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CIVIL ACTION NO. 2:20-CV-112

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Petitioner Warren Pierre Canady, proceeding pro se, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254, alleging that McConnell Unit officials violated his due process rights during a disciplinary proceeding. D.E. 1. Respondent filed a motion for summary judgment contending that Canady failed to state a valid claim for federal habeas corpus relief because the Due Process Clause is not implicated by the changes in the conditions of a prisoner's confinement, and Canady has no liberty interest in parole and does not currently meet the requirements for mandatory supervision. D.E. 39. United States Magistrate Judge Julie K. Hampton issued a Memorandum and Recommendation (M&R), recommending that the Court grant Respondent's motion and deny a certificate of appealability. D.E. 46. Pending before this Court are Canady's objections to the M&R. D.E. 47. For the following reasons, the Court **OVERRULES** the objections and **ADOPTS** the findings and conclusions of the Magistrate Judge.

DISCUSSION

Standard. The district court conducts a de novo review of any part of the magistrate judge's disposition that has been properly objected to. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b)(3); *Warren v. Miles*, 230 F.3d 688, 694 (5th Cir. 2000). As to any portion for which no objection is filed, a district court reviews for clearly erroneous factual findings and conclusions of law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam).

Canady's Objections. Canady argues that: (1) he was not given notice that possession of Uniform Commercial Code (UCC) documents was a felony under Texas law or violated Texas Department of Criminal Justice (TDCJ) policy; (2) McConnell Unit officers violated TDCJ policy by holding his disciplinary hearing more than seven days after the alleged violation; and (3) he has a liberty interest in being released to mandatory supervision. D.E. 47. The objections simply restate his claims in the petition. D.E. 1; D.E. 46. Because Canady does not specifically challenge any of the facts and conclusions stated in the M&R, the Court only reviews the M&R for clearly erroneous factual findings and conclusions of law.

Canady challenged his disciplinary proceeding where he suffered a reduction in line class and lost 45 days of recreation privileges, 60 days of commissary privileges, and 60 days of telephone privileges. D.E. 37-1 p. 3, 36. The Magistrate Judge found that these claims are meritless because: (1) Canady cannot make out a due process claim based on his reduction in line class because he has no protectable liberty interest in a particular custodial classification; and (2) his loss of privileges does not present an

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atypical and significant hardship in relation to the ordinary incidents of prison life. D.E. 46 p. 5–7. The Magistrate Judge also found that Canady has not established that he is eligible for mandatory supervision. D.E. 46 p. 7. After a careful review, the Court finds that the M&R is not clearly erroneous. The Court **OVERRULES** Canady’s objections

Certificate of Appealability. The Court agrees with the Magistrate Judge’s finding that reasonable jurists would not find it debatable that Canady failed to state a claim for a violation of a constitutional right. The Court therefore **DENIES** a certificate of appealability.

CONCLUSION

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the M&R, Canady’s objections, and all other relevant documents in the record, the Court **OVERRULES** Canady’s objections (D.E. 47) and **ADOPTS** as its own the findings and conclusions of the Magistrate Judge (D.E. 46). Accordingly, the Court **GRANTS** Respondent’s motion for summary judgment (D.E. 39) and **DISMISSES** Canady’s petition (D.E. 1). The Court **DENIES** Canady’s request for a certificate of appealability.

ORDERED this 17th day of December, 2020.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE